

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

STARR SURPLUS LINES
INSURANCE COMPANY,

Plaintiff,

-vs-

CUSHING HOSPITALITY, LLC,

Defendant.

Case No. CIV-20-0651-F

ORDER

The court has a duty to inquire into its own jurisdiction. Tuck v. United Services Automobile Assoc. 859 F.2d 842, 844 (10th Cir. 1998).


Upon review of the complaint, it is apparent the court's subject matter jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332. The complaint, however, fails to adequately allege facts regarding the citizenship of the members of Cushing Hospitality, LLC. The complaint alleges the names of the individuals who comprise the membership of Cushing Hospitality, LLC. It also alleges these individuals' states of residence. But for purposes of § 1332, citizenship and residence are two entirely distinct concepts.¹ To support diversity jurisdiction,

¹ A natural person is a citizen of the state in which he or she is domiciled. Crowley v. Glaze, 710 F.2d 676, 678 (10th Cir. 1983). Residence is not the equivalent of citizenship. State Farm Mut. Auto. Ins. Co. v. Dyer, 19 F.3d 514, 520 (10th Cir. 1994); Walden v. Broce Const. Co., 357 F.2d 242, 245 (10th Cir. 1966). For any number of reasons, an individual can "reside" in one place but be domiciled in another place. For adults, domicile is established by physical presence in a place, coupled with an intent to remain there. Mississippi Band of Choctaw Indians v. Holyfield, 498 U.S. 426, 428 (1989). A person's domicile is determined at the time the action is filed. Freeport-McMoRan, Inc. v. K N Energy, Inc., 498 U.S. 426, 428 (1991).

plaintiff must allege the specific state(s) in which each member of the LLC is a citizen.

Accordingly, plaintiff, as the party invoking this court's jurisdiction, is **DIRECTED** to file, within fourteen days of the date of this order, a first amended complaint which provides the missing jurisdictional information. These allegations may be based on plaintiff's information and belief. Absent compliance, this action may be dismissed without prejudice or other measures may be taken.

IT IS SO ORDERED this 9th day of July, 2020.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

20-0651p001.docx